

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

JOSEPH EDWARD WASHINGTON. (#1107093),

Petitioner,

v.

ACTION NO. 2:21cv34-RAJ-DEM

COMMONWEALTH OF VIRGINIA,

Respondent.

REPORT & RECOMMENDATION FOR DISMISSAL

The court received and conditionally filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, along with an Affidavit requesting to proceed in forma pauperis from pro se Petitioner, Joseph Edward Washington (“Washington” or “Petitioner”). (ECF Nos. 1, 2). Washington's petition appears to challenge 2019 convictions in Westmoreland County Circuit Court and states he is serving a prison term of “(13) yrs. (12) months.” By Order entered February 11, 2021, the court denied Washington’s request to proceed in forma pauperis, and directed him to pay the fee, provide an explanation for why he is unable to do so, or request an extension to pay the fee. (ECF No. 6). Washington has not complied with the Court’s directive and has failed to respond to the Order in any manner whatsoever. The time for responding has now expired.

The matter was referred to the undersigned pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C) and Rule 72(b) of the Federal Rules of Civil Procedure. Because Petitioner has failed to comply with the directive outlined in the court’s prior Order, the undersigned recommends that his petition be DISMISSED without prejudice. See Evans v. Croom, 650 F.2d 521 (4th Cir. 1981).

By copy of this report and recommendation, the parties are notified that pursuant to 28 U.S.C. § 636(b)(1)(C):

1. Any party may serve upon the other party and file with the Clerk written objections to the foregoing findings and recommendations within fourteen (14) days from the date this report is forwarded to the objecting party by Notice of Electronic Filing or mail, see 28 U.S.C. § 636(b)(1), computed pursuant to Rule 6(a) of the Federal Rules of Civil Procedure. Rule 6(d) of the Federal Rules of Civil Procedure permits an extra three (3) days, if service occurs by mail. A party may respond to any other party's objections within fourteen (14) days after being served with a copy thereof. See Fed. R. Civ. P. 72(b)(2) (also computed pursuant to Rule 6(a) and (d) of the Federal Rules of Civil Procedure).

2. A district judge shall make a de novo determination of those portions of this report or specified findings or recommendations to which objection is made.

The parties are further notified that failure to file timely objections to the findings and recommendations set forth above will result in a waiver of appeal from a judgment of this court based on such findings and recommendations. Thomas v. Arn, 474 U.S. 140 (1985); Carr v. Hutto, 737 F.2d 433 (4th Cir. 1984); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

The Clerk is DIRECTED to mail a copy of this Report and Recommendation to the Petitioner at both Nottoway Correctional Center and Dillwyn Correctional Center.¹

/s/ 

Douglas E. Miller
United States Magistrate Judge

DOUGLAS E. MILLER
UNITED STATES MAGISTRATE JUDGE

Dated: March 25, 2021

¹ Although Petitioner has failed to notify the court of any relocation, online records reveal he was transferred from Nottoway Correctional Center to Dillwyn Correction Center.

Clerk's Mailing Certificate

A copy of the foregoing was mailed this date to the Petitioner at the addresses listed below:

Joseph Edward Washington
#1107093
Nottoway Correctional Center
P. O. Box 488
Burkeville, VA 23922

Joseph Edward Washington
#1107093
Dillwyn Correctional Center
1522 Prison Road
P. O. Box 670
Dillwyn, VA 23936

Fernando Galindo, Clerk

By /s/ J. L. Meyers
Deputy Clerk

March 26, 2021